

February 20, 2014

**VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Managing Agent  
SCV Metals  
20665 Santa Clara St. Unit 1  
Canyon Country, CA 91351

**Re: Notice of Violation and Intent to File Suit Under the  
Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.***

To Whom It May Concern:

I am writing on behalf of Los Angeles Waterkeeper ("Waterkeeper") regarding violations of the Clean Water Act ("CWA" or "Act")<sup>1</sup> and the State of California's General Industrial Storm Water Permit ("Storm Water Permit")<sup>2</sup> occurring at the SCV Metals Facility, located at 20665 Santa Clara St. Unit 1, Canyon Country, CA 91351 (hereinafter "SCV Metals Facility" or "Facility"). The owner(s) and/or operator(s) of the Facility have failed to obtain coverage under the Storm Water Permit and continue to operate the Facility without a Permit in violation of the Clean Water Act. *See* 33 U.S.C. §§ 1311(a), 1342. ("A failure to comply with or obtain coverage under the Storm Water Permit is a violation of the Clean Water Act.").

A facility's owner(s) and/or operator(s) are liable and subject to civil penalties for violations of the provisions of the Clean Water Act. 40 C.F.R. § 122.41(b). As explained below, the owner(s) and/or operator(s) of the Facility are liable and subject to civil penalties for violating the Clean Water Act and the Storm Water Permit.

Section 505(a) of the Clean Water Act authorizes citizen suits for violations of the Act, including the unpermitted discharge of pollutants. *See* 33 U.S.C. § 1311; 33 U.S.C. § 1365(a)(1) (authorizing suits "against any person . . . who is alleged to be in violation of . . . an effluent standard or limitation under this Act or . . . an order issued . . . with respect to such a standard or limitation."). Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to file suit. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the state in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1).

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<sup>1</sup> Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

<sup>2</sup> National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ, *available at*

[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/induspmnt.pdf](http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/induspmnt.pdf) (including the required Notice of Intent form for storm water dischargers).

Waterkeeper submits this letter to you as the responsible owner, officer, and/or operator of SCV Metals. By this letter issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act, (hereinafter "Notice Letter") Waterkeeper puts the owner(s) and/or operator(s) of the SCV Metals Facility on notice that after the expiration of sixty (60) days from the date of this letter, Waterkeeper intends to file an enforcement action in federal court against the owner(s) and/or operator(s) of the Facility for violating the Storm Water Permit and the Clean Water Act.

## **I. Background**

### **A. Los Angeles Waterkeeper**

Los Angeles Waterkeeper (formerly the Santa Monica Baykeeper) is a non-profit 501(c)(3) public benefit corporation organized under the laws of California with its main office at 120 Broadway, Suite 105, Santa Monica, CA 90401. Founded in 1993, Waterkeeper has approximately 3,000 members who live and/or recreate in and around the Los Angeles area. Waterkeeper is dedicated to the preservation, protection, and defense of the rivers, creeks and coastal waters of Los Angeles County from all sources of pollution and degradation. To further this mission, Waterkeeper actively seeks federal and state implementation of the Clean Water Act. Where necessary, Waterkeeper directly initiates enforcement actions on behalf of itself and its members.

As explained in detail below, the owner(s) and/or operator(s) of the SCV Metals Facility have continuously discharged pollutants into the Santa Clara River. Members of Waterkeeper reside in the County of Los Angeles, near the Santa Clara River, and use and enjoy the water into which SCV Metals is illegally discharging pollutants. Members of Waterkeeper use the Santa Clara River, Santa Clara River Estuary and the Pacific Ocean to swim, boat, kayak, birdwatch, view wildlife, fish, hike, and engage in scientific study, including monitoring activities, among others. The unlawful discharge of pollutants by SCV Metals impairs each of these uses. Thus, the interests of Waterkeeper's members have been, are being, and will continue to be adversely affected by the SCV Metals Facility owners' and/or operators' failure to comply with the Clean Water Act and the Storm Water Permit.

The unlawful storm water discharge from the SCV Metals Facility into the Santa Clara River, Santa Clara River Estuary and the Pacific Ocean impairs Waterkeeper members' use and enjoyment of these waters. Thus, the interests of Waterkeeper's members have been, are being and will continue to be adversely affected by SCV Metals owner(s) and/or operator(s)' failure to comply with the Clean Water Act and the Storm Water Permit.

### **B. The SCV Metals Owner(s) and/or Operator(s)**

Information available to Waterkeeper indicates that the SCV Metals Facility located at 20665 Santa Clara St. Unit 1, Canyon Country, CA 91351 is owned and/or



operated by SCV Metals (referred to in this Notice as “SCV Metals owner(s) and/or operator(s)”).

Information available to Waterkeeper indicates that the SCV Metals owner(s) and/or operator(s) have failed to obtain coverage under the Storm Water Permit since the business began its operations. Information available to Waterkeeper indicates that the Facility’s industrial activities include but are not limited to the storage, processing, handling, recycling, and transportation of scrap metals. These industrial operations fall within the Storm Water Permit’s Standard Industrial Classification code of regulated activity (“SIC Code”) as 5093 (processing, reclaiming, and wholesale distribution of scrap metal and waste materials). The Storm Water Permit therefore regulates the storm water discharges from the SCV Metals Facility. *See* Storm Water Permit, Attachment 1 at 2.

### **C. Storm Water Pollution and Receiving Waters**

With every significant rainfall event, millions of gallons of polluted rainwater, originating from numerous Los Angeles industrial operations such as the SCV Metals Facility, pour into storm drains and Los Angeles area surface waters. The consensus among regulatory agencies and water quality experts is that storm water pollution accounts for more than half of the total pollution entering marine and river environments annually. According to the National Research Council’s “Report on Urban Storm Water,” storm water runoff is “a principal contributor to water quality impairment of waterbodies nationwide.”<sup>3</sup> This discharge of pollutants from industrial facilities in storm water contributes to the impairment of downstream waters and aquatic dependent wildlife. A water body is impaired if it is unable to support its beneficial uses, as described below.

Information available to Waterkeeper indicates that storm water flows from the SCV Metals Facility enter the nearby municipal storm drain systems and then are carried by the municipal storm drains until they reach and discharge into the Santa Clara River.

Discharges from recycling facilities such as the SCV Metals Facility contain pollutants such as: oil and grease (“O&G”); total suspended solids (“TSS”); hydraulic and other fuels; lubricants; heavy metals such as copper, iron, lead, aluminum, and zinc; antifreeze; brake fluid; transmission fluid; solvents; dirt, dust, and debris; pathogens (including bacteria); nutrients; chemical oxygen demand (“COD”); and trash. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and developmental or reproductive harm. Discharges of polluted storm water and non-storm water to the Receiving Waters via the storm drain system pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

Flowing approximately 116 miles from the headwaters of the San Gabriel Mountains to the Pacific Ocean through a 1,600 square mile watershed, the Santa Clara

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<sup>3</sup> National Research Council of the National Academies, “Urban Stormwater Management in the United States,” vii (2008).